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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

In re
PAULETTE CHAPELLE
Debtor.

Case No. LA 04-26542 TD
Adv. Case No. LA 04-02655 TD
Chapter 7

PAULETTE CHAPELLE, an
individual,
Plaintiff.

MEMORANDUM OF DECISION
AFTER TRIAL

DATE: July 7, 2005
TIME: 2:00 p.m.
PLACE: Courtroom 1345

v.

EDUCATIONAL CREDIT MANAGEMENT
CORPORATION,
Defendant.

INTRODUCTION

This adversary proceeding was brought by the Debtor, Paulette Chapelle (Ms. Chapelle), against Educational Credit Management Corporation (Defendant), to obtain a discharge of her student loan obligations pursuant to 11 U.S.C. § 523(a)(8). It was tried before me on July 7, 2005. The Defendant was

1 represented by counsel and Ms. Chapelle appeared pro se.

2 A Stipulation of Admitted Facts and Exhibits for Trial was
3 lodged by the parties and approved by my oral ruling at the time
4 of trial, and later by an order entered on July 14, 2005. The
5 additional evidence consisted of the testimony by Ms. Chapelle
6 and the Defendant's vocational expert, Michael R. Hollis (Mr.
7 Hollis) from Hollis and Associates, and the admitted documentary
8 evidence. Both Ms. Chapelle and Mr. Hollis were cross-examined.

9 **STATEMENTS OF EVIDENTIARY FACT**

10 Ms. Chapelle received an undergraduate degree in 1979 and
11 after several years in the workforce, decided to pursue a legal
12 education with the help of the student loans which she now seeks
13 to discharge. Prior to attending law school, Ms. Chapelle had 7
14 years experience as a paralegal, as well as marketing experience
15 in real estate lending and financial services. Upon entering
16 law school, Ms. Chapelle struggled personally and academically
17 with her classes, but she persisted and graduated from Gonzaga
18 School of Law in 1994, at the age of 41.

19 Since graduating, Ms. Chapelle has also struggled in her
20 attempts to pass the California Bar exam, and has been
21 unsuccessful to date. She took the bar exam in 1995, 1996, and
22 1997. She also studied for the bar two additional times but
23 opted not to take the exam at those times. Ms. Chapelle has
24 expended considerable time and effort in attempting to pass the
25 bar, including taking multiple preparatory classes and quitting
26 full-time employment as a paralegal in 2002 to study for the

1 exam.

2 Initially, Ms. Chapelle believed that her legal education
3 would help her job prospects, but she has struggled to find
4 permanent and satisfying employment as a paralegal since
5 graduating 11 years ago. Since law school, Ms. Chapelle has an
6 unstable work history consisting of largely temporary positions
7 as a paralegal. Overall, she has held over 15 positions since
8 1987, was unemployed in 1999, and is currently experiencing
9 difficulty securing full-time employment, though two of Ms.
10 Chapelle's most recent positions included full-time employment
11 as a paralegal during 2002 and 2003-2004. Ms. Chapelle also has
12 some training and experience as a mediator in the Los Angeles
13 Superior Court, but she has never received compensation for her
14 services as a mediator.

15 Ms. Chapelle has been unable to secure full-time employment
16 since March 2004, but is currently working as a part-time
17 temporary paralegal for an expert witness. She has continued to
18 actively search for employment during this time, including
19 sending out numerous resumes, informing former co-workers of her
20 need for employment, posting her resume on internet sites, as
21 well as searching job postings in the paper and on the internet.
22 She has not sought job counseling services during this time,
23 pursued training in alternative career fields, or attended any
24 job fairs. However, both Ms. Chapelle and Mr. Hollis testified
25 that her J.D. degree might be off-putting to certain employers.
26 Mr. Hollis further testified that Ms. Chapelle's unstable work

1 history also could contribute to her difficulty in securing
2 employment.

3 Ms. Chapelle feels that she can no longer work as a
4 paralegal or in the legal field, but she offers no positive
5 alternative. She believes that her economic situation is not
6 likely to improve, especially as she continues toward retirement
7 age which she sees coming in 13 years. Ms. Chapelle is 52 years
8 old, is unmarried and has no dependents, and further feels that
9 her personal life, retirement plans, and marital prospects are
10 adversely affected by her student loan obligation. Ms. Chapelle
11 is clearly unsatisfied with her career as a paralegal and with
12 the job opportunities, income, and standard of living that her
13 legal education has provided for her.

14 Ms. Chapelle's income has averaged \$23,384 annually since
15 graduating from law school in 1994. More recently, she earned
16 \$31,531 in 2000, \$31,955 in 2001, \$25,752 in 2002, \$46,232 in
17 2003, and \$17,856 in 2004. Her monthly income, as reflected in
18 schedule I of her bankruptcy petition, filed July 30, 2004, is
19 \$2,080 per month. This amount includes \$1,680 in unemployment
20 benefits and a \$400 contribution from her boyfriend. However,
21 Ms. Chapelle testified at trial that she no longer is receiving
22 unemployment payments and currently has part-time temporary
23 employment as a paralegal for an expert witness.

24 Ms. Chapelle's monthly expenses, as reflected in her
25 bankruptcy schedule J, are \$2,102.39 per month. In an effort to
26 lower her expenses prior to her bankruptcy filing on July 30,

1 2004, Ms. Chapelle moved in with her boyfriend in May 2004. Her
2 current rental contribution is \$807.50 per month, for a one-
3 bedroom apartment with a den. Prior to moving in with her
4 boyfriend, Ms. Chapelle lived in a studio apartment in Marina
5 del Rey, two buildings down from where she and her boyfriend
6 currently reside. Her boyfriend previously resided in Florida
7 and rented an apartment for \$700 per month.

8 Ms. Chapelle's schedule J also reflects expenditures of
9 \$100 a month for recreation, \$100 a month for clothing, and
10 \$338.64 per month for car payments. Ms. Chapelle's car is a
11 1997 model in good working condition, and her car loan will be
12 paid off in October 2006.

13 Prior to her bankruptcy filing, Ms. Chapelle incurred
14 additional expenses for two plane tickets to Idaho costing \$476
15 total, purchased by Ms. Chapelle on her credit card in March
16 2004 for her boyfriend and her. Ms. Chapelle also incurred
17 expenses during a trip to Arizona with a friend in October 2003.
18 All of Ms. Chapelle's pre-petition credit card debt, in the
19 amount of \$44,903.62, has been discharged in this bankruptcy
20 case.

21 No exact figure was established at trial as to the current
22 balance of Ms. Chapelle's student loan obligation, however, her
23 student loan debt was consolidated and reissued in the amount of
24 \$73,018 on April 12, 2002. (Exhibit A). No payments have been
25 made against the debt, and interest continues to accrue. In her
26 adversary proceeding, Ms. Chapelle now seeks a discharge of her

1 student loan obligations pursuant to § 523(a)(8), asserting that
2 excepting such debt from a discharge imposes an “undue hardship”
3 on her.

4 DISCUSSION

5 **A. The Ninth Circuit Standard for Determining Dischargeability** 6 **of Student Loan Obligations**

7 A student loan obligation is presumptively nondischargeable
8 in bankruptcy pursuant to § 523(a)(8). Rifino v. United States
9 of America, (In re Rifino), 245 F.3d 1083, 1087 (9th Cir. 2001).

10 The statute states, in pertinent part, “A discharge under
11 section 727 . . . does not discharge an individual debtor from
12 any debt--for an educational benefit overpayment or loan made,
13 insured or guaranteed by a governmental unit . . . unless
14 excepting such debt from discharge under this paragraph will
15 impose an *undue hardship* on the debtor and the debtor’s
16 dependents.” § 538(a)(8) (emphasis added). In Pena, The Ninth
17 Circuit Court of Appeals adopted the three part test found in
18 Brunner to determine dischargeability of student loans. United
19 Student Aid Funds v. Pena, (In re Pena), 155 F.3d 1108, 1112 (9th
20 Cir. 1998). The Brunner test is a widely accepted standard for
21 determining the dischargeability of a student loan obligation.
22 See Id. at 1111.

23 **1. Ms. Chapelle Failed to Establish the First Element of the** 24 **Brunner Test**

25 The evidence fails to establish by a preponderance of the
26 evidence that Ms. Chapelle “cannot maintain, based on current

1 income and expenses, a 'minimal' standard of living for herself
2 . . . if forced to repay the loans" as required by In re Pena,
3 155 F.3d at 1111 (citing Brunner v. New York State Higher
4 Education Services Co., (In re Brunner), 46 B.R. 752 (S.D.N.Y.
5 1985), aff'd by 831 F.2d 395 (2d Cir. 1987)). Ms. Chapelle has
6 demonstrated that she has a history and pattern of financial
7 difficulty. Ms. Chapelle's expenses have clearly exceeded her
8 income, as evidenced by her accumulated \$44,903.62 of credit
9 card debt and bankruptcy filing in July 2004. Her work history
10 has been unstable and her income has fluctuated from year to
11 year. Ms. Chapelle's recent difficulty in maintaining and
12 securing full-time employment has exacerbated her economic
13 situation.

14 However, in order to establish that she cannot maintain a
15 minimal standard of living, Ms. Chapelle "must demonstrate more
16 than simply tight finances. In defining undue hardship, courts
17 require more than temporary financial adversity, but typically
18 stop short of utter hopelessness. The proper inquiry is whether
19 it would be 'unconscionable' to require the debtor to take steps
20 to earn more income or reduce her expenses." Pennsylvania
21 Higher Education Assistance Agency v. Birrane, (In re Birrane),
22 287 B.R. 490, 494 (9th Cir. BAP 2002) (citing United Student Aid
23 Funds, Inc. v. Nascimento, (In re Nascimento), 241 B.R. 440, 445
24 (9th Cir. BAP 1999).

25 Ms. Chapelle has not taken sufficient steps to adjust her
26 expenses to her financial situation. She has been living beyond

1 her means. Although Ms. Chapelle moved in with her boyfriend to
2 share rental payments, she moved out of a studio apartment into
3 a larger apartment with a den, and she chose to remain in a high
4 rent district, while she was unemployed. Ms. Chapelle's lack of
5 effort to find an apartment that is within her means suggests
6 that she has not taken reasonable steps to lower her expenses.

7 Ms. Chapelle's schedule J includes \$100 a month for
8 recreation and \$100 a month in clothing expenses. These
9 expenses are modest but perhaps not reasonable given Ms.
10 Chapelle's student loan obligation and her lack of full-time
11 employment.

12 Ms. Chapelle's expenses also will decrease by \$338.64 per
13 month in October 2006, when she will no longer be making car
14 payments. Ms. Chapelle's claim that she will need to buy a new
15 car "someday" to avoid making repairs on her current vehicle, is
16 speculative, unreasonable, and unconvincing. Ms. Chapelle has
17 not claimed that her vehicle, which is a 1997 model, is
18 inoperative or even experiencing any mechanical difficulties.
19 Her sole contention is that her vehicle is old. Some courts
20 have refused a discharge where the debtor's expense includes the
21 purchase of a new car, finding that such an expense is a "self-
22 imposed hardship." See In re Rifino, 245 F.3d at 1088 (citing
23 Conner v. Illinois State Scholarship Commission, (In re Conner),
24 89 B.R. 744, 749 (Bankr. N.D. Ill. 1988)).

25 In addition to the reasonable steps Ms. Chapelle can take
26 to reduce her expenses, she has the benefit of being completely

1 unburdened by credit card debt. In her chapter 7 case, Ms.
2 Chapelle received a discharge, which included \$44,903.62 in
3 credit card debt. Aside from her necessary living expenses, Ms.
4 Chapelle has no ongoing financial obligations apart from her
5 student loan payments.

6 Just as Ms. Chapelle has not taken reasonable steps to
7 lower her expenses, she has not taken all reasonable steps to
8 increase her income. It is true that Ms. Chapelle has recently
9 had difficulty obtaining full-time employment as a paralegal.
10 However, she stated at trial that, although it is not her
11 desire, she may be forced to take a minimum wage job. This may
12 not be Ms. Chapelle's preference, but it is an entirely
13 reasonable course of action in light of the fact that she has
14 not secured full-time employment during the past 16 months. It
15 is hardly "unconscionable" to ask Ms. Chapelle to take minimum
16 wage employment if it will increase her income, albeit not to a
17 level that will accommodate her desired standard of living.

18 Although the evidence is close on this issue given Ms.
19 Chapelle's pattern of financial difficulty, especially her very
20 limited current income, I find that taking all the facts and
21 surrounding circumstances into consideration, Ms. Chapelle has
22 not met her burden of proving by a preponderance of the evidence
23 that it would be unconscionable to require her to earn more
24 income or reduce her expenses.

25

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1 **2. Ms. Chapelle Failed to Establish the Second Element of the**
2 **Brunner Test**

3 The evidence fails to establish "that additional
4 circumstances exist indicating that this state of affairs is
5 likely to persist for a significant portion of the repayment
6 period," as required by In re Pena, 155 F.3d at 1111 (citing In
7 re Brunner, 46 B.R. 752). It is clear that Ms. Chapelle has
8 experienced personal and economic hardship and has demonstrated
9 an inability to support herself during periods of the repayment
10 period. However, the evidence does not show that Ms. Chapelle's
11 difficulties are likely to persist, or that she is faced by
12 "additional circumstances" that she cannot overcome or are
13 beyond her reasonable control. As the court stated in Birrane,

14 The 'additional circumstances' prong of the Brunner test
15 'is intended to effect 'the clear congressional intent
16 exhibited in § 523(a) (8) to make the discharge of student
17 loans more difficult than that of nonexcepted debt.'
18 . . . There must be more evidence that the debtor's 'road
19 to recovery is obstructed by the type of barrier that would
20 lead [the court] to believe he will be unable to pay for
21 several years.' . . . Examples of such barriers may include
22 psychiatric problems, lack of usable job skills and
23 severely limited education.

24 Birrane, 207 B.R. at 497 (citations omitted). There is no such
25 evidence here. On the contrary, the evidence shows that Ms.
26 Chapelle is healthy, well-educated, intelligent, has no
27 dependents, and faces no "insurmountable" barriers such as
28 mental or physical problems, medical expenses, or a "severely
29 limited education." In re Birrane, 287 B.R. at 498.

30 Ms. Chapelle argued at trial that her age and the amount of

1 the loan coupled with the repayment period constitute
2 "additional circumstances". However, Ms. Chapelle chose to take
3 out a student loan, later in life, with a 30-year repayment
4 period. Ms. Chapelle's age does not constitute an "additional
5 circumstance," especially when she is healthy and does not
6 suffer from any age-related illnesses that affect her ability to
7 work. Ms. Chapelle has at least 13 years before she is eligible
8 for retirement benefits (Exhibit I), and therefore, has over a
9 decade to remain an active and productive member of the work
10 force.

11 Ms. Chapelle also presented evidence that she has been
12 unable to obtain full-time employment since March of 2004,
13 despite her best efforts. Ms. Chapelle believes that her
14 inability to find employment is partially attributable to the
15 fact that some employers are put-off by her law degree. She
16 believes that her law degree has not been of the value to her
17 that she anticipated. However, as the district court stated in
18 Brunner, it would be both "improper" and "antithetical to the
19 spirit of the guaranteed loan program" for me to consider the
20 value of Ms. Chapelle's legal education in determining whether
21 or not to allow a discharge of her loan obligation. See In re
22 Brunner, 46 B.R. at 756, fn. 3.

23 In addition, Ms. Chapelle has failed to prove that her lack
24 of full-time employment is likely to "extend for a significant
25 portion of the repayment period of the loan." Id. at 755.
26 Although Ms. Chapelle has faced considerable difficulty in

1 trying to secure full-time employment, § 523(a)(8) requires more
2 than a showing of temporary difficulty in obtaining work. Id.
3 at 757.

4 The Defendant's vocational expert, Mr. Hollis, testified
5 that Ms. Chapelle's job prospects are good and that job
6 opportunities in the paralegal field are growing. He noted that
7 Ms. Chapelle's background qualifies her as "experienced," and
8 that there is a particularly high demand for litigation
9 paralegals, which is Ms. Chapelle's area of expertise. Mr.
10 Hollis testified to his job search study that revealed over 100
11 openings for paralegal positions in the Los Angeles area.
12 (Exhibit I). According to Mr. Hollis, Ms. Chapelle's best
13 employment prospects and the highest and best use of her skills
14 are as a paralegal. Ms. Chapelle's assertion that she can no
15 longer work as a paralegal is not supported by Mr. Hollis'
16 testimony, or any other evidence that she is either mentally or
17 physically incapable of working as a paralegal. In fact, Ms.
18 Chapelle is currently working as a part-time temporary
19 paralegal.

20 Mr. Hollis also testified that there are a number of other
21 jobs that Ms. Chapelle's skills would qualify her for outside of
22 the paralegal field. Despite Ms. Chapelle's contention that she
23 cannot succeed as a paralegal, she failed to show that she has
24 adequately pursued alternative career paths or training since
25 she first began working as a paralegal 18 years ago. Ms.
26 Chapelle also has not sought any job counseling services or

1 attended any job fairs to assist her during the current 16-month
2 period in which she has been seeking full-time employment
3 unsuccessfully. Further, as noted above, Ms. Chapelle has
4 demonstrated a resistant attitude toward working in positions
5 that might pay less or that might offer wages below her desired
6 income level.

7 Although Ms. Chapelle's recent efforts to find work as a
8 full-time paralegal have been fruitless thus far, her present
9 difficulty in securing full-time employment does not establish
10 that this difficulty will persist. As the district court stated
11 in Brunner, Ms. Chapelle is also "healthy, presumably
12 intelligent, and a well-educated woman . . . She has no other
13 dependents or any other extraordinary burdens which would impair
14 her finding other work." In re Brunner, 467 B.R. at 757.

15 Mr. Hollis concluded from his examination of the evidence
16 that Ms. Chapelle could obtain full-time employment within three
17 to six months if she made a more concerted and focused effort.
18 (Exhibit I). The evidence also shows that Ms. Chapelle was
19 recently able to obtain employment as a full-time paralegal in
20 2002 and then again in 2003. Ms. Chapelle's temporary
21 difficulty in securing employment is insufficient to establish
22 that her current period of underemployment will continue for a
23 significant portion of the repayment period.

24 **3. Ms. Chapelle Failed to Establish the Third Element of the**
25 **Brunner Test**

26 The evidence fails to establish that Ms. Chapelle made

1 "good faith efforts" to repay her loan obligation, as required
2 under Brunner. In re Pena, 155 F.3d at 1111 (citing In re
3 Brunner, 46 B.R. 752). Two factors used to evaluate good faith
4 are the debtor's efforts to (1) "obtain employment, maximize
5 income, and minimize expenses," and (2) "to negotiate a
6 repayment plan." Educational Credit Management Corporation v.
7 Mason, (In re Mason), 315 B.R. 554, 563 (9th Cir. BAP 2002)
8 (citing In re Birrane, 287 B.R. at 499-500).

9 I conclude that the evidence establishes that Ms. Chapelle
10 has made diligent efforts to obtain full-time work as a
11 paralegal during the past 16 months. But the record also
12 establishes that in 2002 Ms. Chapelle quit full-time employment
13 to study for the bar exam, which she then opted not to take
14 because, as she testified, she "knew she would fail." Still,
15 she chose to give up full-time employment and voluntarily
16 dispense with her primary source of income. Further, as noted
17 above, Ms. Chapelle has demonstrated an unwillingness to
18 consider certain employment opportunities because they provide
19 less income than her previous jobs.

20 Ms. Chapelle presented evidence that she has lowered her
21 expenses by moving in with her boyfriend to share rental
22 payments since May 2004. However, Ms. Chapelle chose to remain
23 living in the high rent district in which she had been living
24 and made no efforts to find an apartment in a lower rent
25 district. In fact, Ms. Chapelle moved out of a studio apartment
26 into a larger apartment. Ms. Chapelle's share of the rental

1 payment is \$807.50 per month, which is \$107.50 more than what
2 she testified was her boyfriend's entire rental payment in
3 Florida. I conclude that it would not be unreasonable for Ms.
4 Chapelle to attempt to lessen her expenses by finding an
5 apartment in a rental district that is more reasonable given her
6 current financial situation.

7 Although Ms. Chapelle's current financial situation might
8 prevent her from making loan payments at the present time, she
9 has made no payments on her loan, even during periods where she
10 was employed full-time. Ms. Chapelle's bankruptcy petition
11 reflects that she earned \$42,728 in income in 2003, which was
12 \$19,015 more than her prior year's income, yet she made no
13 payments on the loan during this period of increased income.

14 Also during this time, Ms. Chapelle used her available
15 income to pay for her and her boyfriend's tickets to Idaho in
16 2003, and to incur expenses during a trip to Arizona with a
17 friend. These expenditures were unreasonable in relation to her
18 non-payment of her student loan obligation.

19 Ms. Chapelle has also abjectly refused to take advantage
20 of available repayment options. Although Ms. Chapelle has taken
21 advantage of forbearances and deferments on her student loan
22 payments, she has declined to consider enrolling in the Ford
23 Program, of which she was aware before trial. One of the
24 options under the Ford Program is an Income Contingent Repayment
25 Plan (ICRP), which calculates payments based on the borrower's
26 income and allows her to pay nothing during periods where her

1 income falls below the poverty line. (Exhibit G). "A debtor's
2 effort--or lack thereof--to negotiate a repayment plan is an
3 important indicator of good faith." In re Birrane, 287 B.R. at
4 499 (citing United States Department of Education v. Wallace,
5 (In re Wallace), 259 B.R. 170, 185 (C.D. Cal. 2000).

6 In addressing her refusal to take part in the Ford Program,
7 Ms. Chapelle testified at trial that the Ford Program is "a
8 fiction" for her and that it simply results in a "new debt"
9 while the Defendant gets paid off. This argument is neither
10 supported by the evidence nor convincing. The ICRP option under
11 the Ford Program would allow Ms. Chapelle to pay off her already
12 existing loan obligation with fluctuating monthly payments based
13 on her income. (Exhibit C). The Court in Birrane found that the
14 good-faith prong had not been met, in part because the debtor
15 "failed to take any steps towards renegotiating a repayment
16 scheduled under the ICRP program." In re Birrane, 287 B.R. at
17 500.

18 Ms. Chapelle has made no payments on her loan obligation,
19 has failed to show that she maximized her income and minimized
20 her expenses, and has refused flexible payment options available
21 to her. Therefore, I conclude that Ms. Chapelle has failed to
22 establish that she made a good-faith effort to repay her loan
23 obligation.

24 **CONCLUSION**

25 In order to receive a discharge of her student loan
26 obligation, it is the plaintiff's burden to establish each

1 element of the Brunner test by a preponderance of the evidence.
2 In re Pena, 155 F.3d at 1111 (citing In re Brunner, 46 B.R.
3 752). Ms. Chapelle has failed to meet this burden.

4 Although the evidence shows that Ms. Chapelle is currently
5 struggling to attempt to repay her loan obligation, and is
6 undoubtedly experiencing personal hardship, this is insufficient
7 to meet her burden under the high standard that Congress has
8 instituted. "The existence of the adjective 'undue' [in §
9 523(a)(8)] indicates that Congress viewed garden-variety
10 hardship as insufficient excuse for a discharge of student loans
11" In re Pena, 155 F.3d at 1111 (citing In re Brunner, 46
12 B.R. 752).

13 It is unfortunate that Ms. Chapelle pursued a legal
14 education and now feels burdened by her debt and no longer
15 desires to pursue a career in her chosen field. However, where
16 both Congress and the courts have set a clear and high threshold
17 for determining the dischargeability of student loans, Ms.
18 Chapelle is not entitled to a discharge under § 523(a)(8)
19 because she has not demonstrated that she has taken adequate
20 steps to deal appropriately and realistically with her student
21 loan obligation.

1 Judgment will be entered in favor of the Defendant,
2 Educational Credit Management Corporation. Defendant's counsel
3 is instructed to prepare and lodge an appropriate judgment and
4 notice of entry.

5 SO ORDERED.

6 DATED: July 22, 2005

7 _____
 /s/

8 THOMAS B. DONOVAN
9 United States Bankruptcy Judge
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1 NOTICE OF ENTRY OF JUDGMENT OR ORDER
2 AND CERTIFICATE OF MAILING

3 TO ALL PARTIES IN INTEREST LISTED BELOW:

4 1. You are hereby notified that a judgment or order entitled:

5 **MEMORANDUM OF DECISION AFTER TRIAL** was entered on **JUL 25 2005**

6 2. I hereby certify that I mailed a true copy of the order or judgment to the persons
7 and entities listed below on **JUL 25 2005**

8 Plaintiff

9 Paulette Ann Chapelle
10 P.O. Box 10484
Marina Del Rey, CA 90295

Chapter 7 Trustee

John Menchaca
835 Wilshire Boulevard, Suite 300
Los Angeles, CA 90017

11 Attorney for Defendant

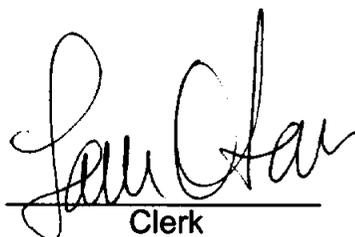
12 Scott A. Schiff
Soukup and Schiff, LLP
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13 Los Angeles, CA 90067

Office of the U.S. Trustee

Office of the U. S. Trustee
Ernst & Young Plaza
725 S. Figueroa St., 26th Floor
Los Angeles, CA 90017

14
15
16
17 **JUL 25 2005**

18 Dated:

19 
Clerk